

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

JOHN OLIVARRIA,

Plaintiff,

-against-

BLOOMBERG L.P.,

Defendant.

Index No. 107575 /08

COMPLAINT

NEW YORK
COUNTY CLERKS OFFICE

MAY 30 2008

NOT COMPARED
WITH COPY FILE

Plaintiff John Olivaria, by his attorneys, Liddle & Robinson, L.L.P., for his Complaint alleges as follows:

THE PARTIES

1. Mr. Olivaria is a gay male. He resides at 227 East 57th Street, Apartment 5F, New York, New York 10022. Mr. Olivaria was employed by Defendant Bloomberg L.P. ("Bloomberg") from 2001 until September 22, 2006.

2. Upon information and belief, Bloomberg is a limited partnership organized under the laws of Delaware, with its principal place of business located at 731 Lexington Avenue, New York, New York 10022.

THE NATURE OF THE ACTION

3. This is a civil action for damages and remedies brought under: (1) the New York State Human Rights Law, N.Y. Exec. Law § 290 et seq.; (2) the New York City

Human Rights Law, N.Y.C. Admin. Code § 8-101 et seq. and (3) Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII").

JURISDICTION AND VENUE

4. Jurisdiction is founded upon 28 U.S.C. § 1331 and principles of supplemental jurisdiction under 28 U.S.C. § 1337.

5. Mr. Olivarria served copies of this Complaint upon the New York City Commission on Human Rights and the Corporation Counsel prior to filing it in the Supreme Court of the State of New York, New York County.

6. Venue is proper in this district under 28 U.S.C. § 1331(a) because Defendant resides in the Southern District of New York.

FACTS

7. Mr. Olivarria has been a makeup artist and hair stylist for approximately twenty years. Through the years, his clients have included Cindy Crawford, Ricky Martin, Mariah Carey, Nikki Taylor, Kate Moss, Carla Bruni, Charlize Theron, Sandra Bullock, Heather Locklear, Gisele Bundchen, Ben Stiller, Jack & Christine Wagner, Wendy Malick, Patti Austin, Bill Clinton, Benicio del Toro, and Jerry Seinfeld.

8. Mr. Olivarria was employed as a makeup artist and hair stylist by Bloomberg for approximately five years until Bloomberg terminated his employment on Friday, September 22, 2006.

9. During his employment, Mr. Olivarria worked within Bloomberg's Financial News Division. The location of where the makeup artists and hair stylists work is referred to at Bloomberg as the Makeup Room.

10. During the entire period Mr. Olivarria was employed at Bloomberg, he was the only male makeup artist and hair stylist. Indeed, he was the Makeup Room's only male employee.

Bloomberg's Financial News Division

11. Bloomberg's Financial News Division employs news anchors from around the world. For example, it employs anchors from Italy, France, and Germany. These international anchors are referred to as anchor teams — the Italian anchor team, the French anchor team, the German anchor team.

The Brazilian Anchor Team And The Makeup Room Have A Long History Of Animosity

12. There is a long history of animosity between the Brazilian anchor team and the Makeup Room.

13. For example, a few years ago, a woman on the Brazilian anchor team named Dagmar¹ reported to Human Resources that Sharon Slattery, the manager of the Makeup Room, had physically pushed her. Ms. Slattery was not terminated as a result of this incident. Indeed, Ms. Slattery is still employed by Bloomberg in the Makeup Room, where she continues to interact with the Brazilian anchor team.

¹ Mr. Olivarria cannot recall Dagmar's last name.

14. During Mr. Olivarría's employment at Bloomberg, another example of this animosity was the ongoing heated tension between the Brazilian anchor Denise Barboza and Melissa "Micky" Williams, a hair stylist and makeup artist who was employed in the Makeup Room, like Mr. Olivarría. In fact, Ms. Barboza and Ms. Williams's relationship was so poor that Ms. Barboza would not come into the Makeup Room if Ms. Williams were present. Ms. Barboza would not let Ms. Williams do her hair and makeup. Despite the disruption caused by their turbulent relationship, Bloomberg did not terminate the employment of Ms. Barboza or Ms. Williams.

15. The animosity between the Makeup Room and the Brazilian anchor team had been particularly bad for approximately the month and a half long period before Bloomberg terminated Mr. Olivarría's employment. It was in this context that Bloomberg terminated Mr. Olivarría's employment.

16. Notably, prior to this period, Mr. Olivarría had never been involved in this animosity. Indeed, Ms. Barboza, who, as described above, did not get along with Ms. Williams, would call Mr. Olivarría before she came to the Makeup Room to inquire whether Ms. Williams was present.

17. There finally came a time when Mr. Olivarría was no longer immune from the turbulent relations between the Makeup Room and the Brazilian anchor team.

18. Apparently, in approximately mid-September 2006, a Brazilian anchor named Laura² who had just begun employment with Bloomberg reported that Mr. Olivarría said "the entire Brazilian anchor team should be eliminated." Mr. Olivarría never said this.

² Mr. Olivarría cannot recall Laura's last name.

19. Mr. Olivarria did say, however, that “[he] wish[ed] [they] could eliminate the whole problem between the Makeup Room and the Brazilian team.”

20. After Laura made the false report about Mr. Olivarria, Sharon Slattery, his manager, Mike Manana, a senior manager, Mike Clancy, the Head of Television at Bloomberg, and Gary Lou, another senior manager, had a meeting to discuss the prospect of terminating Mr. Olivarria’s employment.

21. Following this meeting, on September 22, 2006, at 11:15 a.m., Ms. Slattery and Mr. Manana called Mr. Olivarria into a conference room for a meeting.

22. During this meeting, Ms. Slattery and Mr. Manana questioned Mr. Olivarria regarding whether he had said “the entire Brazilian anchor team should be eliminated.” Mr. Olivarria told them “no [he] would never say something like that.”

23. Shortly after the meeting had commenced, Ms. Slattery blurted out the following statement:

24. “I told them that you’re not *that* gay. I mean you may be a little bit queeny, but you’re not one of those gay guys who are vicious or mean. . .”

25. Mr. Olivarria did not understand why Ms. Slattery made this statement and he replied, “okay, and . . .”

26. Mr. Manana then stated:

“They want to fire you, but Sharon and I went to bat for you. We both put our jobs on the line and said, ‘John is very valuable to this operation. Sharon counts on John to run the Makeup Room Monday through Friday, 3:45 a.m. to 7:30 a.m. . . and one Saturday a month.’ ”

27. Ms. Slattery then stated that during the earlier meeting regarding the prospect of terminating Mr. Olivarria’s employment she had added the following comment:

"After five years of loyalty and devotion we can't just let him go!"

28. Mr. Manana then stated that during the earlier meeting regarding the prospect of terminating Mr. Olivarria's employment, the head of Television at Bloomberg, Mike Clancy, said "This is yet another example of a conflict with the Brazilians versus the Makeup Room. Let him go."

29. After Mr. Clancy made this comment, according to Ms. Slattery and Mr. Manana, they then told Mr. Clancy that they did not want Mr. Olivarria to be fired. Persuaded by Ms. Slattery and Mr. Manana, it was eventually decided that Mr. Olivarria would be suspended rather than terminated.

30. This was the message that Ms. Slattery and Mr. Manana gave Mr. Olivarria during their meeting on September 22, 2006 — Bloomberg was suspending Mr. Olivarria, without pay for two weeks.

31. Mr. Olivarria believed Bloomberg's decision to suspend him was unfair. Bloomberg believed Laura, who had been employed by Bloomberg for approximately only one month, over Mr. Olivarria, an employee of approximately five years. Ms. Slattery and Mr. Manana agreed with Mr. Olivarria and promised him that they would try to reverse the decision to suspend him. They then excused Mr. Olivarria from the meeting and told him to go home and wait for an update.

32. Later that day, at approximately 5:00 p.m., Ms. Slattery called Mr. Olivarria. She stated: "I've been dreading to make this call. I'm sorry, I did everything I could ... they, they no longer need your services. I really went to bat for you, but they just decided

they don't need your services. The Brazilian girls say you make them feel 'uncomfortable.' I'm so sorry, John. I feel terrible, but this is their decision."

33. Mr. Olivaria could not believe it. He said to Ms. Slattery, "You've got to be kidding me. Sharon you're not serious."

34. Ms. Slattery, in tears, said "It's not right, it's just not fair. Two new anchors from Brazil and then you get fired. It's not fair that you got the bum wrap."

35. Upon information and belief, at all relevant times, the people at Bloomberg who made the decision to terminate Mr. Olivaria's employment were aware that Mr. Olivaria is gay.

**Bloomberg Discriminated Against Mr. Olivaria —
The Only Male In The Makeup Room**

36. Mr. Olivaria believes Bloomberg discriminated against him on the basis of his gender and sexual orientation when it terminated his employment.

37. Mr. Olivaria is the only male in the Makeup Room.

38. After all of the repeated conflicts between the makeup room and the Brazilian anchor team, he was the only employee of the Makeup Room whose employment Bloomberg terminated.

39. Throughout his employment with Bloomberg, he was qualified for his position and performed his job at a level that met or exceeded Bloomberg's expectations. Indeed, prior to the above-described incident when a false report was made against him, Bloomberg had never questioned his performance nor did it ever inform him of any complaint made about him.

**Many Anchors At Bloomberg Were Outraged
About Bloomberg's Termination Of Mr. Olivarría's Employment**

40. Many anchors at Bloomberg were outraged about Bloomberg's termination of Mr. Olivarría's employment. Indeed, quite a few anchors at Bloomberg called him personally to express their outrage. He also received calls and e-mails of support and reports of outrage and protest from other members of the staff.

41. Encouraged by the support he received, Mr. Olivarría called Bloomberg's Human Resources Department ("HR") for instructions on how to appeal the termination decision. HR informed him that he had no right to appeal the decision because he was "an independent contractor ... and that it was simply a case of your services no longer being needed."

42. Mr. Olivarría responded to HR that many members of the staff were saying that his services were in fact very much needed and that as someone who worked full time for five years, he must have at least some rights. HR refused to assist him.

**Mr. Olivarría Suffered Damages As A Result
Of Bloomberg Terminating His Employment**

43. Mr. Olivarría suffered damages as a result of Bloomberg terminating his employment.

44. Prior to Bloomberg terminating his employment, Mr. Olivarría earned approximately \$100,000.00 per year.

45. Mr. Olivarría could not secure steady employment for approximately ten months after Bloomberg terminated his employment.

46. When Mr. Olivarria finally found new employment, it was for much less compensation.

47. In addition to losing income, Mr. Olivarria also suffered humiliation as a result of Bloomberg unlawfully terminating his employment.

FIRST CAUSE OF ACTION

(Discrimination on the Basis of Sex and Sexual Orientation
Under the New York State Human Rights Law)

48. Mr. Olivarria repeats and re-alleges the allegations contained in paragraphs 1 through 47 as if separately set forth herein.

49. At all relevant times, Mr. Olivarria was an "employee" of Bloomberg for purposes of §§ 292 and 296 of the New York State Human Rights Law.

50. Bloomberg is an "employer" for purposes of §§ 292 of the New York State Human Rights Law.

51. By its actions detailed above, Bloomberg has discriminated against Mr. Olivarria on the basis of his sex and sexual orientation.

52. As a result of Bloomberg's actions, Mr. Olivarria has suffered substantial damages, including but not limited to emotional pain and mental anguish and lost wages and benefits, in amounts to be determined at trial.

53. The treatment of Mr. Olivarria constituted willful discrimination because of Mr. Olivarria's sex and sexual orientation in violation of § 296 of the New York State Human Rights Law.

SECOND CAUSE OF ACTION
(Discrimination on the Basis of Sex and Sexual Orientation
Under the New York City Human Rights Law)

54. Mr. Olivarria repeats and re-alleges the allegations contained in paragraphs 1 through 53 as if separately set forth herein.

55. Mr. Olivarria is a "person" under § 8-102(1) of the New York City Human Rights Law.

56. Upon information and belief, Bloomberg is an "employer" subject to the provisions of the New York City Human Rights Law under § 8-102(5) of the Administrative Code.

57. By its actions detailed above, Bloomberg discriminated against Mr. Olivarria on the basis of his sex and sexual orientation.

58. The treatment of Mr. Olivarria constitutes willful discrimination on the basis of sex and sexual orientation in violation of § 8-107 of the New York City Human Rights Law.

59. By reason of the foregoing, Mr. Olivarria has suffered substantial damages, including but not limited to emotional pain and mental anguish and lost wages and benefits, in amounts to be determined at trial.

60. Upon information and belief, Bloomberg's discriminatory conduct was taken with reckless indifference to Mr. Olivarria's rights, entitling him to punitive damages under § 8-502 of the New York City Human Rights Law.

THIRD CAUSE OF ACTION

(Discrimination on the Basis of Sex under Title VII)

61. Mr. Olivarria repeats and re-alleges the allegations contained in paragraphs 1 through 60 as if separately set forth herein.

62. At all relevant times, Mr. Olivarria was an "employee" of Bloomberg under Title VII, 42 U.S.C. § 2000e(f).

63. Upon information and belief, Bloomberg is an "employer" under Title VII, 42 U.S.C. § 2000e(b).

64. By its actions detailed above, Bloomberg discriminated against Mr. Olivarria because of his sex in violation of Title VII, 42 U.S.C. § 2000e-2(a).

65. As a result of Bloomberg's actions, Mr. Olivarria has suffered substantial damages, including lost wages and benefits and emotional distress, in amounts to be determined at trial.

66. Upon information and belief, Bloomberg's discriminatory conduct was engaged in with malice and/or reckless indifference to Mr. Olivarria's federally protected rights. Mr. Olivarria is therefore entitled to punitive damages under Title VII.

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

A. On the First Cause of Action, back pay and benefits and front pay and benefits, plus compensatory and punitive damages, attorneys' fees, costs and interest, all in amounts to be determined at trial;

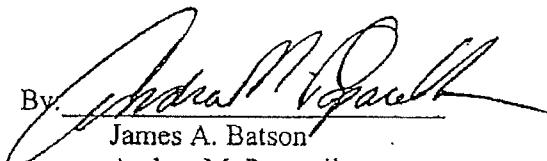
B. On the Second Cause of Action for violation of the New York State Human Rights Law, back pay, front pay or reinstatement, plus compensatory damages, costs and pre-judgment interest, all in amounts to be determined at trial;

C. On the Third Cause of Action for violation of the New York City Human Rights Law, back pay, front pay or reinstatement, plus compensatory and punitive damages, attorneys' fees, costs and pre-judgment interest, all in amounts to be determined at trial; and

D. All such other and further relief as this Court deems just and proper.

Dated: New York, New York
May 30, 2008

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SUMMONS AND COMPLAINT

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